

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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4 UNITED STATES OF AMERICA, )  
5 Plaintiff, ) CR20-00127-RSL  
6 v. ) SEATTLE, WASHINGTON  
7 GARY BOWSER, )  
8 Defendant. ) February 10, 2022 -  
10:00 a.m.  
SENTENCING HEARING

9  
10 VERBATIM REPORT OF PROCEEDINGS  
11 BEFORE THE HONORABLE ROBERT S. LASNIK  
UNITED STATES DISTRICT JUDGE

12  
13 APPEARANCES:

14 For the Plaintiff: Brian D. Werner  
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20  
21 For the Defendant: Michael Filipovic  
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25 THE COURT: Thank you. Please be seated.

1 THE CLERK: This is the matter of United States v. Gary  
2 Bowser, Cause No. CR20-127, assigned to this court.

3 Counsel, please rise and make your appearances for the  
4 record.

5 MR. WERNER: Good morning, Your Honor. Brian Werner  
6 from the United States Attorney's Office, and Anand Patel from  
7 the Computer Crime and Intellectual Property section of the  
8 Department of Justice.

9 THE COURT: Thanks very much, Mr. Werner and Mr. Patel.

10 MR. FILIPOVIC: Good morning, Your Honor. Michael  
11 Filipovic and Christopher Sanders on behalf of Gary Bowser.

12 THE COURT: Thank you, Mr. Filipovic, Mr. Sanders.  
13 Welcome, Mr. Bowser.

14 We are here for sentencing on Mr. Bowser's pleas of guilty to  
15 one count of conspiracy to circumvent technological measures and  
16 to traffic in circumvention devices, that's Count 6, and Count 9,  
17 trafficking in circumvention devices.

18 In preparation for the sentencing today, I have reviewed  
19 many, many documents. I have an excellent Presentence Report by  
20 Officer Amelia Whaley. Thank you very much. Senior Probation  
21 Officer Amelia Whaley. I have attached to that the letter to me  
22 from Nintendo about how they have been damaged and the letter  
23 from the Entertainment Software Association indicating how the  
24 entire industry has been affected by the crimes of Mr. Bowser. I  
25 have the sentencing memorandum of the United States. I have the

1 defense sentencing memorandum.

2 I have signed a document sealing Defendant's sentencing  
3 memorandum, the exhibits, because of them affecting matters of  
4 medical privacy and some individual privacy issues of people who  
5 were interviewed. So all of the sealed documents are approved.

6 And I have a letter to me from the defendant accepting  
7 responsibility and some letters from people who know him very  
8 well and some photographs.

9 So, Mr. Filipovic, do I have everything you wanted me to have  
10 in preparation for the sentencing?

11 MR. FILIPOVIC: Yes, Your Honor.

12 THE COURT: And have you had an opportunity to go over  
13 the reports with your client and make any additions or  
14 corrections?

15 MR. FILIPOVIC: I have, Your Honor.

16 THE COURT: Mr. Bowser, are you ready to proceed to  
17 sentencing?

18 THE DEFENDANT: Yes, I am, Your Honor.

19 THE COURT: Okay. Thank you.

20 We will start with then -- Is it Mr. Patel that is going to  
21 do the presentation?

22 MR. PATEL: Yes.

23 THE COURT: Yes.

24 MR. PATEL: Good morning, Your Honor.

25 THE COURT: Good morning.

1 MR. PATEL: Before I begin, I would just like to  
2 acknowledge a few of the victims in the gallery today.

3 THE COURT: Oh, great.

4 MR. PATEL: We have representatives from the  
5 Entertainment Software Association and Nintendo of America.

6 At your convenience, Nintendo's General Counsel, Mr. Singh,  
7 would like to make a statement.

8 THE COURT: Absolutely.

9 And the Entertainment Software Association was a plaintiff in  
10 front of me -- how many years ago was that? -- 18, 19, when the  
11 State of Washington passed a violent video game criminal law that  
12 outlawed renting -- made it a crime to rent a video game to  
13 anyone under 18 where there was violence committed against a  
14 police officer. And the defendant was Norm Maleng, the King  
15 County Prosecuting Attorney, my mentor and great friend.

16 But it was a very interesting proposition. This is in like  
17 2003. So I got all these video games that I took home, and my  
18 boys loved playing. And, you know, as a judge, you can't help  
19 being affected somewhat by your family, right? So the boys are  
20 saying to me, "Dad, if you uphold this law, we will not be able  
21 to show our faces in school again," and my wife is like, "If you  
22 don't uphold this law, you are not going to get good treatment at  
23 home." So it sort of canceled the two things out.

24 But I did find that it was unconstitutional. But Paul  
25 Smith -- the ESA brought out Paul Smith to argue the case from

1 Washington, D.C. Absolutely the best lawyer to ever appear in  
2 front of me. He did a great job. But, of course, it was  
3 relatively easy to say, okay, so by "violence against a police  
4 officer," you're meaning you can't have anything that has Robin  
5 Hood in it, right -- because the Sheriff of Nottingham is his  
6 victim -- or *Minority Report*? Which was a hot movie at the time,  
7 with the thought police who were tracking down people who are  
8 going to commit crimes. And so I struck it down, and it was  
9 upheld by the Ninth Circuit.

10 So I just put that on there because I haven't been in court  
11 for so long and I have all of these stories pent up in me.

12 Go ahead.

13 MR. PATEL: Thank you, Your Honor. It's been a while  
14 for a lot of us.

15 Gary Bowser was the public face of a sophisticated criminal  
16 conspiracy called "Team Xecuter." The group discovered  
17 vulnerabilities in video game consoles, like the Nintendo Switch;  
18 they designed hardware and software to exploit those flaws; they  
19 manufactured consumer-grade devices that implemented those  
20 workarounds; they marketed those circumvention devices around the  
21 world using multiple platforms; and they sold the devices to tens  
22 of thousands of customers using several distributors and directly  
23 through their website.

24 Mr. Bowser was a significant part of Team Xecuter's  
25 operations. He was a spokesman. He teased and revealed the

1 group's products; he flaunted Nintendo enforcement efforts; he  
2 engaged with customers and troubleshooted their problems; and he  
3 controlled access to 13,000 copyrighted illegal video games. In  
4 exchange for that, he profited to the tune of \$320,000 over the  
5 course of seven years until his arrest. He should be held  
6 accountable for those actions.

7 The facts and the guidelines are not in dispute. As Your  
8 Honor noted, a lot of the paper has gone over most of the salient  
9 details, so I won't reiterate a lot of that, but there are three  
10 points I would like to touch on today.

11 First is the need for and the benefit of strong deterrence in  
12 this case, second is the significant role that Mr. Bowser played  
13 in the day-to-day operations of Team Xecuter, and third is that  
14 the stipulated loss amount is the correct sentencing -- correct  
15 measure to use for sentencing.

16 So the first of those, deterrence. The PSR discusses some of  
17 the reservations that the probation office has had in terms of  
18 Mr. Bowser's recidivism, and the government echos those concerns.  
19 In particular, the situation in which Mr. Bowser finds himself  
20 after his release will be very similar to the one when he  
21 initially was introduced to Team Xecuter. He will be socially  
22 isolated and financially destitute. We need to ensure that any  
23 sort of sentence imposed today will prevent him from making the  
24 same mistakes he did back then.

25 But broader than that, this case provides an example for

1 general deterrence as well. There's extensive and continuing  
2 coverage of this case in the media, both from indictment until  
3 today. Even in the past week, there's been coverage of the  
4 parties' sentencing memoranda. That broad dissemination of this  
5 case and its events, coupled with the need to deter current  
6 members of the Team Xecuter conspiracy, who we know continue to  
7 operate in the space, counsels for a lengthy sentence, and we  
8 also need to deter international actors who target U.S. companies  
9 and interests from doing that sort of activity.

10 Now, as I'm sure you know, it's difficult and, therefore,  
11 rare that we have a foreign actor, a foreign cybercriminal, that  
12 we have identified, extradited, and brought to justice before a  
13 U.S. court, and because of that, this case gives the court an  
14 opportunity to provide a strong message to people following  
15 Mr. Bowser's footsteps.

16 Second, Mr. Bowser did not play a limited role in the  
17 organization. He voluntarily and knowingly joined the group,  
18 which harnessed his technical knowledge and experience in the  
19 video game industry. He dedicated many hours each day to the  
20 enterprise, including writing press releases for his websites,  
21 soliciting advertisers, identifying distributors, marketing  
22 products, engaging with customers on troubleshooting their issues  
23 with the products, and the list goes on. This wasn't a situation  
24 where the enterprise was leeching off of Mr. Bowser's goodwill.  
25 This was a symbiotic relationship where both sides were

1     profiting. Mr. Bowser sold his expertise, his knowledge, and his  
2     time for a stipend and the opportunity to get additional money,  
3     and Mr. Bowser did just that. Through the ad revenues he  
4     generated from monetizing the criminal assets, the criminal  
5     digital assets, he was able to gain around \$33,000 each year over  
6     the course of his seven years. That was his personal initiative  
7     and personal gain.

8             Third, Mr. Bowser's gain is not the appropriate measure to  
9     use for sentencing, because his actions in administering the  
10    company's website, marketing its products, engaging with  
11    customers, and identifying distributors all were in furtherance  
12    of the conspiracy, which gained tens of millions of dollars.  
13    Mr. Bowser was an integral part of the scheme and had many years  
14    of experience in the industry, giving him an edge and some  
15    insight.

16            While he might have been an unlucky businessman, that doesn't  
17    condone his actions here. The stipulated loss amount was the  
18    foreseeable result of the enterprise's and Mr. Bowser's conduct.  
19    But even if you do look at Mr. Bowser's gain, the \$320,000 over  
20    the course of seven years, it did provide a very comfortable  
21    lifestyle. That equates to about \$3,800 a month, all of which  
22    was disposal income that would not have been available to him but  
23    for his involvement in the conspiracy. And you have to keep in  
24    mind that this was in the Dominican Republic, where the lifestyle  
25    is a little bit different than some of the other co-defendants in



1 the case. That amount allowed Mr. Bowser to live a comfortable  
2 life. He bought a car, he was living in a nice apartment, after  
3 basically losing everything.

4 Your Honor, Mr. Bowser was the public face of Team Xecuter.  
5 He should be held responsible for his actions that enabled the  
6 conspiracy to thrive. For that, the government asks for an  
7 imprisonment of 60 months, three years supervised release, and a  
8 portion of restitution of \$4.5 million.

9 THE COURT: Great. Thank you very much.

10 Would you like me to hear from Mr. Singh now?

11 MR. PATEL: At the court's convenience.

12 THE COURT: Sure. Yeah, let's do that.

13 For the record, could you just say your name and spell your  
14 first name and last name?

15 MR. SINGH: Sure. Good morning, Your Honor.

16 THE COURT: Good morning.

17 MR. SINGH: My name is Ajay Singh. A-j-a-y. Last name,  
18 Singh. S-i-n-g-h.

19 THE COURT: Thank you, Mr. Singh. Go right ahead.

20 MR. SINGH: Thank you, Your Honor.

21 I have been with Nintendo for more than ten years now. I  
22 currently serve as General Counsel and as the Vice President of  
23 Business Affairs.

24 Nintendo has incurred great harm and financial loss for many  
25 years from Defendant's unlawful conduct. We appreciate the

1 opportunity to share our views here today.

2 I, of course, do not want to restate everything in Nintendo's  
3 Victim Impact Statement, which the court already has and has  
4 reviewed, but I do want to take a chance to share how  
5 Defendant's conduct and that of his co-conspirators has deeply  
6 affected Nintendo of America and what we do, as well as the  
7 community we serve.

8 We also believe this is a unique opportunity for the court --  
9 sorry, for the unlawful hacking community and for the gaming  
10 community as a whole to understand that IP crimes cause real  
11 harms and are serious offenses.

12 I would like to start with a few words on who we are. Of  
13 course, at its most basic level, we market and distribute  
14 electronic video games, consoles, and accessories. But we are  
15 also part of the community. We have been headquartered in this  
16 district for decades, and Nintendo has been a stable company, a  
17 job creator in the Seattle area, currently employing over 1,200  
18 people in this area. Our mission at Nintendo of America is  
19 simple and has been the same for decades: to create smiles  
20 through unique entertainment experiences. This mission begins  
21 with our customers, continues with our consoles, and includes our  
22 games.

23 Nintendo released its first video game console in the United  
24 States in 1985 and has continued to innovate in the video-game  
25 space ever since. For decades, our customers have turned to

1 Nintendo and our games not only for entertainment but to stay  
2 connected and have fun with their friends and with their family,  
3 including during the pandemic. Community is at the heart of what  
4 we do.

5 Nintendo also plays an important role in the broader gaming  
6 community. We partner with thousands of third-party game  
7 developers around the world who rely on Nintendo platforms to  
8 promote and monetize their games and so they can also continue to  
9 innovate.

10 In March 2017, we released the Nintendo Switch, a home video  
11 game console, which can be played not only connected to the  
12 television but also on the go. And over the past five years,  
13 the Nintendo Switch, and various variations of it, have become  
14 one of the most -- sorry, one of the best-selling video game  
15 consoles of all time, having sold now more than 100 million units  
16 worldwide.

17 Nintendo itself, of course, makes video games for the Switch,  
18 and most of those are played by millions of players, but as I  
19 noted, we partner with thousands of third-party game publishers  
20 who make games, and, together, the hardware is the center of an  
21 ecosystem of developers and players who sustain each other in a  
22 virtuous cycle.

23 Like other video game consoles, the Nintendo Switch contains  
24 numerous technological measures to protect the ecosystem. These  
25 security measures are critical in preventing someone from

1 breaking into the system to copy and distribute our games, as  
2 well as our third-party partners.

3 It's the purchase of video games that sustains Nintendo and  
4 the Nintendo ecosystem, and it is the games that make the people  
5 smile. It's for that reason that we do all we can to prevent  
6 games on Nintendo systems from being stolen. We do this by  
7 creating technological protection measures which can be thought  
8 of as a good old-fashioned lock. And the Team Xecuter software  
9 distributed by defendant and his co-conspirators is the  
10 black-market skeleton key to that lock. Once the key is used,  
11 the lock is open, and the software can be used for unauthorized  
12 copying, playing, and modifying of pirated games.

13 Defendant, for years, trafficked in that skeleton key,  
14 meaning he marketed and sold, for money, various tools used to  
15 copy, distribute, and play pirated games. Defendant has admitted  
16 that the primary purpose of those tools and their hacking efforts  
17 was to promote piracy, and, indeed, the tool's only purpose was  
18 breaking into our consoles to allow the playing of pirated games  
19 and the running of associated software.

20 To briefly illustrate this point, I would like to provide a  
21 couple of examples of the tools distributed by Defendant and his  
22 co-conspirators. One is called "SX Dumper," which is a feature  
23 that does only one thing. It permits a user to dump, i.e.,  
24 unlawfully copy, the contents of an authentic Nintendo game.  
25 Defendant, in fact, posted to the enterprise's web page

1 screenshots of this tool being used to illegally copy titles  
2 owned by Nintendo.

3 Defendant and his co-conspirators also distributed a tool  
4 called "SX Installer," which connects the user to a menu of  
5 installable, pirated games. And the tool was described by  
6 Defendant, again, on posts on the enterprise's web page, as being  
7 able to delete one of Nintendo's technological measures.

8 The third feature I will highlight is what the defendant and  
9 his co-conspirators call "stealth mode," which is designed to  
10 make it more difficult for Nintendo to identify the users playing  
11 pirated game copies.

12 Turning more specifically to Defendant, he played a  
13 significant and direct role in the success of Team Xecuter, and  
14 he held a leadership position. For over a decade, Defendant  
15 served as the equivalent of a chief marketing officer, as well as  
16 the chief operating officer of the enterprise, and has been one  
17 of only a handful of key members of Team Xecuter running the  
18 day-to-day operations of the piracy group. He operated the  
19 enterprise's various web pages, which were the hub of the  
20 enterprise, and these sites routinely connected customers to  
21 resellers from around the world where they could obtain the  
22 hacking devices and which contained updated information, updated  
23 download files, license, keys, anything needed to run the hacking  
24 software. He also helped to ensure that there was ongoing  
25 customer support of, basically, every feature and every tool

1     circulated by this organization.

2           More broadly, Defendant was one of three to five people on  
3     the leadership team and the right-hand man for Max Louarn, who  
4     was thought of as the person at the top of this organization.  
5     Defendant corresponded with Mr. Louarn constantly and was the  
6     main contact as well for Team Xecuter's distribution and  
7     manufacturing centers abroad. In total, between June 2018 and  
8     Defendant's arrest in September 2020, Defendant trafficked in  
9     hundreds and hundreds of thousands of circumvention devices.

10          Turning to the harm caused by these actions and by Defendant,  
11     I will start with some of the financial harm, which is  
12     substantial, not only to Nintendo, but also to our partners and  
13     licensees.

14          With respect to Nintendo, the defendant and the government  
15     have stipulated to damages greater than \$65 million. On top of  
16     that, Nintendo has spent enormous resources trying to stop Team  
17     Xecuter. We have been working on this for decades -- well, at  
18     least for a decade, I would say. Nintendo has had to update its  
19     hardware to prevent Team Xecuter devices from working. That  
20     included releasing a new version of our console. It has also  
21     spent significant resources on software updates and, of course,  
22     on IP enforcement around the world.

23          Team Xecuter also causes significant harm to Nintendo's game  
24     publisher licensees and partners. Many game publishers are small  
25     studios that invest substantial amounts of capital and work hours

1 in developing just one or two games for release every few years.  
2 The costs for developing interactive games are high, often  
3 millions of dollars. That's an enormous investment for these  
4 companies and for the individuals associated with those  
5 companies, and their margins are sometimes incredibly small.

6 In fact, Your Honor, as noted earlier, Michael Lewis, from  
7 the Entertainment Software Association, traveled here today  
8 because of these very concerns. ESA represents those third-party  
9 licensees, and its presence here emphasizes that rampant piracy,  
10 which is Team Xecuter's goal and their profit driver, jeopardizes  
11 those publishers' entire businesses. Team Xecuter takes money  
12 that, fairly, should go to the game developers, and that's not  
13 sustainable.

14 I would also like to address some of the nonfinancial harms,  
15 one of which is cheating. The SX OS distributed by defendant and  
16 his co-conspirators allows cheating in games in Nintendo's  
17 system, which jeopardizes the community that Nintendo strives to  
18 create. When cheats are introduced onto our multiplayer  
19 platforms, it ruins the experience for everyone else, for the  
20 benefit of one individual who happens to be cheating. That  
21 includes the families and children who are at the heart of our  
22 customer base. People get frustrated with cheating, and, of  
23 course, frustrated people stop playing the games or returning to  
24 the community. Parents should not be forced to explain to their  
25 children why people cheat and why sometimes games are not fair

1 just because one person wants an unfair advantage.

2 Just as concerning, SX OS also allows users to modify their  
3 characters' online game-play to include nonnative content,  
4 including, potentially, inappropriate content. This is not a  
5 small issue, as it threatens the community and the entertainment  
6 value Nintendo provides. And we have taken many steps and  
7 employed a number of people -- many people -- to keep our games  
8 secure from that type of content.

9 Finally, Nintendo has had to release a new version of our  
10 hardware in response to one of these hacking tools, and this  
11 modification entailed countless hours of engineering and  
12 adjustments to our global manufacturing and distribution chains  
13 and, of course, corresponding resources. To be clear, these  
14 effects are a direct result of the defendant and Team Xecuter  
15 attacking our technological protection measures.

16 Finally, I just wanted to conclude by talking a little about  
17 our concerns relating not only to Defendant specifically, but  
18 also to others within Team Xecuter who are closely watching and  
19 who are already seeking their next endeavor to attack our  
20 systems.

21 I would like to start with concerns about what Defendant does  
22 next. To be clear, Defendant has worked with us to resolve the  
23 civil case we filed against him. We found him to be forthcoming  
24 in that process. We have sincere hope Defendant will live a  
25 law-abiding life following his release, but Nintendo remains



1 concerned that Defendant is at high risk of reoffending. He was  
2 first arrested in connection with Nintendo piracy in 2008, and he  
3 then spent 12 years undermining our console security and  
4 infringing our games. That kind of dedication is not easily  
5 eroded.

6 Also, Defendant is not a U.S. citizen, and we understand he  
7 will likely be deported following the conclusion of his sentence  
8 here. We fear there is no way to effectively ensure compliance  
9 and change behavior once his sentence concludes.

10 We also have significant concerns about Team Xecuter and the  
11 hacking community as well in relation to what happens here today.  
12 First, Team Xecuter has gone to great lengths to try to avoid  
13 prosecution and detection overall. For example, Defendant and  
14 the other Team Xecuter members specifically targeted the United  
15 States market, all the while deliberately avoiding travel to the  
16 United States, avoiding storing assets in the United States or  
17 directly conducting operations in the United States. Similarly,  
18 Team Xecuter and its resellers routinely move their servers to a  
19 new country or create new domains when Nintendo shuts down an  
20 illegal website.

21 Second, the community is watching. The hacking community and  
22 much of the wider gaming community is watching the outcome of  
23 this case very closely, and Team Xecuter leaders have actively  
24 monitored Nintendo litigation in the past, going so far as to set  
25 up Pacer accounts under fake names to pull our filings.

1 And perhaps most critically, the enterprise is continuing  
2 even while Defendant is behind bars, because most of the  
3 enterprise is not currently behind bars. After the Department of  
4 Justice seized -- I'm sorry. After the Department of Justice  
5 seized the Team Xecuter domains, one Team Xecuter admin noted  
6 that the developers of Team Xecuter devices are still doing fine,  
7 although they're in hiding.

8 We know that this criminal case has dissuaded some members,  
9 but it has not dissuaded all of them, and the next steps will be  
10 impacted by the sentence the court imposes here.

11 Last, I will just say thank you, Your Honor, for allowing us  
12 to speak today. This is a very significant moment for us. We  
13 have been working towards this moment for more than ten years,  
14 multiple teams across the globe. We appreciate your time and  
15 that you would consider our views.

16 THE COURT: Thank you, Mr. Singh.

17 You probably have come across this. Sometimes in TV or  
18 motion pictures, hackers or pirates are sort of glorified as  
19 they're sticking it to the man, and big companies are reaping  
20 tremendous profits and it's good for the little guy to have this.

21 You've addressed the fact that Nintendo employs 1,200 people  
22 in the Seattle area, that there are smaller developers whose  
23 profit margins are very narrow.

24 What do you think? What else can we do to convince people  
25 that there's no glory in this hacking/piracy?

1 MR. SINGH: That's a very complex question, Your Honor.

2 I think a large -- there would be a large benefit to further  
3 education of the public and of, particularly, individuals who are  
4 interested in the excitement of perhaps doing something that was  
5 in this area. I think we have seen some success in the Motion  
6 Picture Association and in the music arena in that regard. And I  
7 think there could be a little bit of additional work done there  
8 that would benefit the ecosystem in general.

9 THE COURT: Great. Well, thanks so much for coming in.  
10 And I really appreciate your very thoughtful letter and the  
11 remarks you've made today.

12 MR. SINGH: Thank you, Your Honor. We appreciate your  
13 time.

14 THE COURT: Great.

15 Mr. Patel, is there anyone else who wants to address the  
16 court, from the prosecution?

17 MR. PATEL: No, Your Honor.

18 THE COURT: Okay. Thank you very much.

19 Mr. Filipovic.

20 MR. FILIPOVIC: Thank you, Your Honor.

21 Your Honor, the first thing I would like to say is that, you  
22 know, it's really been my pleasure to represent Mr. Bowser. He's  
23 been one of the most honest and straightforward and direct  
24 clients that I've represented in the many years of my practice.

25 When the government provided us this information about what

1 the loss amounts were for Nintendo and the damage to Nintendo,  
2 that you heard Mr. Singh speak about, and to others, I met with  
3 Mr. Bowser, and I just assumed they were exaggerating, that it  
4 couldn't be that much money, it couldn't be that much damage, and  
5 he looked at me and said, "Yep, yep, yep, that's all true." And  
6 it really speaks to his acceptance of responsibility in this  
7 case, you know, both by his words and the actions he has taken  
8 over the last 16 months. So there's not -- particularly with  
9 Mr. Patel's remarks, there's not much I can really disagree with.

10 With respect to Mr. Bowser's role in this case, I would  
11 direct the court to the carefully crafted statement of facts in  
12 our plea agreement and to the presentence report.

13 One of the things that has happened over time is that facts  
14 get embellished when we're talking about what the group did and  
15 what Mr. Bowser's role was, and I think it's important to keep  
16 those two things separate. Without Mr. Bowser, this enterprise  
17 would have gone on. There would have been another Mr. Bowser.  
18 Without Mr. Chen, without Mr. Louarn, that's not true.

19 Mr. Bowser was not a developer. The developers, the people  
20 who actually made these devices and fixed them when Nintendo  
21 responded to it, they were paid very handsomely, much more than  
22 Mr. Bowser. He was not a reseller. He was not one of those  
23 independent contractors who was making a lot of money for that.  
24 That being said, the comments about Mr. Bowser's role as being  
25 significant are accurate, and we're not disputing that.

1       What I would like to focus on with my remarks is what really  
2       seems to be the main emphasis here, both from the government and  
3       from Nintendo, which is the concept of deterrence. And the court  
4       is well aware that there's two aspects to deterrence. There's,  
5       you know, deterring Mr. Bowser from going forth and committing  
6       future crimes, and then there's the general deterrence, all the  
7       people that are listening to this hearing, all the people that  
8       are going to be paying attention to what the court's sentence is.

9       I would first like to speak about specific deterrence, and  
10      the court has a letter from Mr. Bowser. He's also going to speak  
11      to the court. I know that Your Honor has been on the bench a  
12      long time, and there's probably a certain skepticism when you  
13      hear from someone that says, "You're never going to see me again,  
14      Your Honor. I will never be in trouble again."

15             THE COURT: Sometimes I write down the year that I'm  
16      going to see them again, yeah.

17             MR. FILIPOVIC: But in Mr. Bowser's case, I don't think  
18      it will be a year and I don't think you will be writing down a  
19      year. There's, basically, a number of reasons why I think  
20      specific deterrence should not even be taken into account here  
21      because, Mr. Bowser, there are many reasons why he's not going to  
22      do this again. One is the metamorphosis he's made while at the  
23      detention center, the statements he's made, the work he's done in  
24      this case.

25      The other thing is that if you look at Mr. Bowser and you

1 look at what he has been through -- and I think this relates to  
2 the deterrence issue -- I have just brought three photographs  
3 that I would like the court to see, and I'm sure the court maybe  
4 has seen these places before, but these are photos of where he's  
5 been living the last 14 months in the Federal Detention Center.

6 Now, the photo that I have up here, this is not his unit,  
7 this is another unit, but they're all the same. I have been in  
8 every one of these units at the FDC. This is the general area.  
9 So when things are good, this is where the prisoners can go  
10 during the day for a few hours. There's actually something  
11 that's not shown here. There's a little gym area, there's a  
12 library. But this is where he's been living for 14 months.

13 For six of those months, he's been on a form of a lockdown  
14 due to COVID or some other reasons. And this is a picture of how  
15 you get into a cell like Mr. Bowser's. That's the entryway to  
16 each of these cells.

17 This is a picture of a typical cell at the detention center  
18 at SeaTac. Two people live in this space. I showed this to  
19 Mr. Bowser this morning -- because this is not his cell -- and he  
20 said, "Well, you know, I'm in a somewhat special cell. Mine is  
21 about 18-inches wider because it's a special cell to accommodate  
22 the wheelchair that I was using much of the time, and I get the  
23 bottom bunk because of my problem." But there are two people  
24 here.

25 For six months of the last 16 months, he has been locked in

1 this sized cell, plus 18 inches, for at least 23 hours a day.  
2 During the height of COVID, they only let people out every three  
3 days to go out to take a shower for maybe a half an hour and come  
4 back. So, you know, he gets out a little bit, but this is where  
5 he spent six months.

6 The reason I'm showing this to you is not to ask the court to  
7 feel sorry for Mr. Bowser or to say that his conditions are maybe  
8 any different from any other of my clients or our office's  
9 clients that have had to suffer through this time, but to make  
10 the point that if this doesn't deter someone like Mr. Bowser, you  
11 know, will another six months, will another year, will another  
12 two years, is that what is necessary, to convince someone to not  
13 get back into this business and face this kind of a, you know,  
14 problem and these types of confinements?

15 The other thing I would like to address with respect to  
16 specific deterrence, you know, probation -- I agree with the  
17 court. I thought the probation officer's report was  
18 exceptionally well done. In fact, the statement of facts and the  
19 history of my client was so well done that I didn't spend a lot  
20 of time on that in my sentencing memorandum. Where I disagree  
21 with probation, with the government, and with Mr. Singh is the  
22 issue of specific deterrence. And one of the things that was  
23 mentioned in one of the reports, either in the government's or  
24 probation's, was that because he's a Canadian citizen, he's going  
25 to have to be sent back to Canada and we can put him on

1 supervised release but we can't supervise him, so in order to  
2 make sure we deter Mr. Singh -- not Mr. Singh -- I mean,  
3 Mr. Bowser, then we really should be giving a longer period of  
4 imprisonment for purposes of specific deterrence.

5 I strongly disagree with that for several reasons. One, that  
6 is not specific deterrence. Number one, that is incapacitation.  
7 That's an argument for putting -- incapacitating someone so they  
8 won't commit other crime. And the court is familiar with that.  
9 I mean, there are many cases where someone commits a violent  
10 crime or they're a serious physical risk to the community, like a  
11 drug lord, you know, defendants like that, where part of the  
12 sentencing analysis is: How long do I need to keep this person  
13 locked up just to keep him away from other people and keep people  
14 safe? That's not Mr. Bowser.

15 The second reason I think that's an inappropriate factor for  
16 the court to consider here is, in my papers, I pointed out all  
17 the differences that Mr. Bowser has faced and will continue to  
18 face as a non-U.S. citizen with whatever court -- with whatever  
19 sentence the court imposes. His sentence will likely -- he will  
20 serve, behind bars, twice as much as a U.S. citizen would serve  
21 if given the same number on the sentence. And to now, in  
22 addition to that, say we have to give him even more time because  
23 he's a Canada citizen or he's not a U.S. citizen, because we  
24 can't adequately supervise him on supervised release, is really  
25 like a triple whammy. He gets worse custody conditions, he gets



1 longer time behind bars, and now he gets a longer sentence  
2 because of something he can't control. And I would urge the  
3 court not to consider that in the analysis.

4 And in that vein, with respect -- well, this more goes to  
5 general deterrence, and that has to do -- I'm going to talk about  
6 general deterrence next. You know, the concept of general  
7 deterrence, and the reading I've done on it, is that it's not  
8 really the length of an individual's sentence that really fosters  
9 general deterrence; it's certainty of apprehension, arrest,  
10 conviction. The length of the sentence really does not have that  
11 great of an impact on general deterrence. And I agree with what  
12 Mr. Singh and what Mr. Patel said, that this case will have some  
13 attention and the online-community people will read about it,  
14 but the way to deter people is to arrest more people, charge more  
15 people, take more civil actions against people. I know the  
16 government, and I know Nintendo in particular, are really focused  
17 on that and they're making strong efforts in that regard. But  
18 the court should not be used as a vehicle to send a message, so  
19 to speak, to others through one person by imposing an unduly  
20 harsh sentence simply for the purpose of sending a message to  
21 others. First, I don't think it's empirically supported, and,  
22 again, I don't think that's a fair way to treat Mr. Bowser in  
23 particular, who, again, is the, you know, third defendant in this  
24 three-defendant case and the least culpable of the three people  
25 involved and the one that was the most dispensable and the least

1 compensated.

2 And, you know, one of the things that was mentioned also was  
3 Mr. Max Louarn, who's like -- he's the lead guy. I point out in  
4 my papers he has a federal conviction from the '90s. I think he  
5 served 60 or 70 or 80 months on that case. It was like a phone  
6 card scam of some sort. Based on my research through a paralegal  
7 in the office, it appears he has a pending extradition matter in  
8 France. We have not been able to obtain the documents from that.  
9 The information I was provided yesterday was he may have a  
10 hearing sometime in May.

11 I think one of the problems that the government has had with  
12 these cases is getting some foreign countries to extradite. You  
13 know, Canada is not one of those countries. I don't know about  
14 France and their history with these types of cases. That action,  
15 I assume, is still going on, and there's the possibility that  
16 they will extradite him at some point. But in addition to the  
17 people online looking at this, I think the courts in France will  
18 be looking at this, and they will be saying: Okay. Should we  
19 extradite this person? How will that person be treated in a  
20 courtroom in the United States if they're sent over to the United  
21 States?

22 I think there's another aspect to this. That if the court  
23 imposes too harsh of a punishment or for the wrong reasons, it  
24 could send the wrong message to some of the foreign governments  
25 that are being asked to cooperate with the entertainment industry

1 and with Nintendo and other industries, and I think that should  
2 also be taken into account.

3 Your Honor, when I met with Mr. Bowser, when Mr. Sanders and  
4 I met with Mr. Bowser this morning in the lockup -- it's really  
5 interesting how you learn new things all the time, even after you  
6 have been with someone for a year -- and we were just discussing  
7 the journey he took when he arrived in New Jersey, was taken into  
8 custody, and then went from one federal prison to another and  
9 ended up in Nevada. And he told me when he came in, he weighed  
10 410 pounds -- I didn't know that he weighed that much -- and by  
11 the time he got to the FDC, he was down to 320. He had lost  
12 90 pounds. So I asked him, "Well, how did that happen?" Well,  
13 he said he wasn't getting adequate treatment for the  
14 elephantiasis in his leg. And the one thing you have to really  
15 worry about is you have to worry about skin breakage, and when  
16 that happens, you're very susceptible to a bad infection. He had  
17 a bad infection, they took him to a hospital in Pahrump, Nevada,  
18 and he got past that. But, you know, I asked him how he was  
19 doing this morning. He says, "Well, you know, I had this little  
20 break in my skin this morning." I said, "Well, how are you  
21 dealing with that?" He said, "Well, I had some coffee and I made  
22 a little paste, and I've heard that that's really good to take  
23 care of your skin." And I think it just brought home for me that  
24 the physical challenges he has -- they're not life threatening;  
25 you know, the BOP will try to do the best they can to take care

1 of him -- it is a big challenge to get adequate medical care, and  
2 he has to essentially care for himself.

3 Mr. Bowser is not a person who feels sorry for himself. You  
4 know, it's a sad story when you look at his whole life. I mean,  
5 he's had some successes, he grew up in a good family, good  
6 parents, then had some tragedy strike. But he's always been a  
7 person who has looked to the future, which is what he's doing  
8 right now. He's looking forward to getting out, he's looking  
9 forward and actually eager to continue in the work he has done  
10 for himself and for others when he's been in custody. He's  
11 committed to that, and I believe that he will follow through on  
12 all of those commitments.

13 So, Your Honor, we would respectfully ask that the court  
14 impose a sentence of 19 months. That is, effectively, a  
15 time-served sentence. I think he would be released in a few days  
16 or weeks, if the court imposed 19 months. It is also,  
17 effectively, the same as a 38-month sentence, 38 months of a  
18 time-behind-bars sentence for a U.S. citizen. We ask the court  
19 that -- we suggest to the court that balancing all of the factors  
20 here, that that is the fair result here.

21 THE COURT: Thank you, Mr. Filipovic.

22 When are you actually stepping down?

23 MR. FILIPOVIC: Well, Your Honor, March 1st is when  
24 Mr. Fieman takes over. My last day working, before I go on  
25 leave, is next Tuesday.

1 THE COURT: So this may be your last time appearing in  
2 front of Judge Lasnik?

3 MR. FILIPOVIC: Yes, Your Honor.

4 THE COURT: Well, I just want to say it's been an  
5 absolute joy to have you always prepared, always articulate,  
6 always respectful, and we will miss you very much in the federal  
7 criminal justice system, and we're very grateful for all the work  
8 you did.

9 I was telling my extern that before she was born, you and I  
10 argued a case in the State Supreme Court and we have known each  
11 other quite a long time and the mutual respect is apparent.

12 So thank you very much, Mr. Filipovic.

13 MR. FILIPOVIC: Thank you, Your Honor.

14 THE COURT: Sure.

15 So Mr. Bowser will address the court now?

16 MR. FILIPOVIC: Yes, Your Honor.

17 THE COURT: He can do it from there or he can do  
18 it from -- whichever way he wants.

19 MR. FILIPOVIC: He would like to go to the podium.

20 THE COURT: That's fine. You can go to the podium.

21 THE DEFENDANT: Good afternoon, Your Honor.

22 THE COURT: Good morning, Mr. Bowser.

23 THE DEFENDANT: I would like, of course, to say a few  
24 words to the court --

25 THE COURT: Yes.

1 THE DEFENDANT: -- and accept my full responsibility for  
2 the crimes I committed against Nintendo and all that are victims  
3 in this case. There are thousands of video game publishers that  
4 were hurt by my actions. And I am sorry for the damage I have  
5 caused.

6 I have written a few letters and I have submitted them to the  
7 court in advance, but I had been thinking last night what to say  
8 now, but I really don't have a prepared speech, so I'm just going  
9 to talk.

10 THE COURT: Uh-huh.

11 THE DEFENDANT: It has been a very traumatic experience  
12 for me getting arrested, coming here, going through this. This  
13 is my first time actually in a jail going through the court  
14 process and everything. And the amount of time I've spent  
15 already, 16 months in custody, a lot of that time -- I spent six  
16 months, basically, locked up due to COVID. I went through all  
17 three of the COVID waves before there was even a vaccine  
18 available. I personally haven't got the vaccine, and the reason,  
19 I am skeptical with my medical condition, how it will affect me,  
20 and I haven't been able to actually have proper medical treatment  
21 because I haven't been able to have a one-on-one with a doctor to  
22 see if the vaccine would be possible with my health conditions.

23 When I first got arrested, I was 410 pounds. I had to use a  
24 wheelchair. I spent my life drinking, since I was age 15, after  
25 my mom died, and this is the longest time I have been sober in my

1 life.

2 And during my lockdown, I have spent a lot of time alone,  
3 thinking, reviewing my life, my choices, the mistakes I've made,  
4 and I'm ready to make amends for everything I've done. And I am  
5 completely sorry for the damage I have caused.

6 To Nintendo's estimates, the 72 million is a small fraction.  
7 They've probably lost billions due to piracy. And it's an  
8 ongoing problem. And my part of the conspiracy was really  
9 insignificant compared to what others have done. I have seen it.  
10 I have reported on it over the news. My main part of the role  
11 really was on the news part, so I followed both sides, the good  
12 and the bad and the ugly parts of it. And I know a lot of  
13 developers personally that have been affected by it. I was  
14 actually sorry that I played a part in causing that.

15 And as Nintendo mentioned in their statement, there really  
16 needs to be a deterrent to stop others, but as my lawyer also  
17 mentioned, prison time really is not going to stop others.  
18 There's so much money to be made from piracy that it's  
19 insignificant. People would rather commit the crime and have  
20 tons of stuff. I myself am not a greedy person. I just want to  
21 live, make enough to support myself. I'm not like others. I  
22 know developers that have bought like seven BMWs, have bought  
23 houses with the money they've made; resellers that take vacations  
24 every year to countries. I have lived in the same place for over  
25 ten years. I only -- any money I make, I use to help others. I

1 find giving back to the community better. And I'm sorry that I  
2 made money from an illegal operation, and it was a mistake to do  
3 so.

4 In the past, I would -- I wasn't doing that. When I was a  
5 younger person, I was very successful business-wise. I made my  
6 money legit, and I helped raise kids. I had beautiful  
7 relationships, some problems in my life. But my main focus now,  
8 after I get released, is to better myself. I have already taken  
9 those steps while in custody. I have lost weight, I have been  
10 exercising, I haven't been drinking, of course, and I feel  
11 better.

12 And the time I have spent alone in my cell, I've done a lot  
13 of reading. I've had a few cellies that have also had  
14 psychological problems, so I get their books and I go through it  
15 and realize, wait a minute, I might have some problems I need  
16 some help with. And when I get out, I'm going to seek  
17 professional help for my drinking and I'm going to continue  
18 bettering myself. And I no longer have high blood pressure  
19 because I have lost weight. So that's one step. And even though  
20 my leg is actually a lot better than it was when I first got  
21 arrested, I think it will get better once I get proper medical  
22 treatment.

23 And as for my future plans, there is deterrence. They're  
24 talking about I'm going to recommit, I'm going to do this again  
25 the moment I get out. Well, there's three major reasons why not.



1 Number one, I have been arrested. I went through all of this  
2 traumatic process, and I am sorry for my actions, and I am  
3 clearly not going to do this again. Number two, even if I wanted  
4 to, I really couldn't, because the video game world, like  
5 Nintendo mentioned, is monitoring everything, watching it. I am  
6 basically exceded from that society, and I don't want to have  
7 any party of that anymore anyway.

8 So I'm going to go back, when I get released, back to my  
9 original passion in life that made me successful. I was very  
10 good at programming home computers and designing software. I  
11 myself was a small-time publisher. So I want to go back to doing  
12 good stuff in that way. But that doesn't make money right away.

13 I have also been looking, while I was in jail, at various  
14 courses that I could take and things I can do. Unfortunately,  
15 where I'm housed right now, and due to COVID, there is no  
16 programming. I can't take any programs or anything. But there  
17 was one course that I looked at, which was really good -- and I  
18 have already ordered it; it cost \$49 -- and it was to learn how  
19 to be a freight broker. And, right now, that's very  
20 valuable/needed, because of the supply-chain crisis. That  
21 actually helps distributors and publishers too. And it's  
22 something I can do, with my limited mobility, from any location.  
23 And I have already talked to the representative of -- it's a  
24 program offered from The Golden Phoenix Project, it's called  
25 "Fresh Start Lifestyles," and they have been in touch with some

1 of my people that have written character reference letters. And  
2 it's only going to cost \$1,000 for the complete course, once I'm  
3 out. And they will supply me with a laptop and all the licenses  
4 and all the forms and a mentor and the leadership skills to  
5 become a freight broker, a licensed freight broker, and I can  
6 operate that business from both the U.S. and Canada. And they  
7 estimate I will be making 44,000 to 90,000 a year right away,  
8 once I start. So that is one of the things I will focus on. And  
9 that will keep me away from possibly recommitting crimes or  
10 anything else, and this experience I have gone through already  
11 will definitely do so.

12 That's really all I have. And, Your Honor, if you have any  
13 questions, you are free to ask me.

14 THE COURT: Well, the question I asked Mr. Singh about,  
15 you know, sort of the glamour of hacking.

16 THE DEFENDANT: The glamour, yes, that is definitely out  
17 there.

18 THE COURT: Yes.

19 THE DEFENDANT: Unfortunately, Hollywood glamorizes  
20 hackers and stuff. What is really needed is education. There  
21 needs to be more education about that it really -- how people are  
22 hurt. People don't realize how much it actually hurts people.  
23 There needs to be more education.

24 THE COURT: Aren't you kind of in a unique position to  
25 make that point? I mean, you are, obviously, a writer.

1 THE DEFENDANT: Yeah. One of my cellies actually said I  
2 should write a book about it or something.

3 THE COURT: Yeah.

4 THE DEFENDANT: Yeah.

5 THE COURT: Or at least an article that the industry  
6 might publish to say --

7 THE DEFENDANT: Yeah.

8 THE COURT: -- I was wrong to do what I did because I,  
9 you know, was hurting little people, not just big companies.

10 THE DEFENDANT: Yeah, that's right. You hurt a lot of  
11 little people.

12 THE COURT: Yeah. So would you do that?

13 THE DEFENDANT: Yeah. I would be open to actually  
14 helping educate.

15 THE COURT: Okay. Great. Thank you. All right,  
16 Mr. Bowser. Thanks very much.

17 THE DEFENDANT: Okay. Thank you, Your Honor.

18 THE COURT: This has been scored as an Offense Level 31,  
19 Criminal History Category 1, and the guideline range is nine to  
20 ten years, 108 to 120 months. Senior Probation Officer Whaley  
21 recognizes this is a proper departure downward under very many  
22 circumstances, and even the government agrees to that.

23 What is the proper sentence for Mr. Bowser under the  
24 circumstances? And, of course, reasonable minds can differ on  
25 that. I think the government's recommendation of five years is

1 absolutely solid and appropriate in normal times, but we're not  
2 in normal times. We're in a difficult situation health-wise and  
3 incapacitation-wise, prison-wise, and we don't know where we're  
4 going in the future, but we know in the past it's been  
5 considerable hard time.

6 Now, let me address the two aspects of deterrence, and here I  
7 agree with Mr. Filipovic strongly on one and disagree strongly on  
8 the other. I'm not worried that Mr. Bowser is going to reoffend.  
9 I believe he has turned a corner, I believe he sees the light,  
10 and I don't think he will reoffend.

11 On the other hand, general deterrence and sending a message,  
12 I always tell the jurors, "Your role is not to send a message.  
13 Your role is to decide guilt or innocence on the facts." But my  
14 role sometimes does entail sending a message. For a long time,  
15 you know, white-color crime was considered not real crime and it  
16 flourished. We, in this community, still remember the Washington  
17 Mutual Bank disaster where nobody went to prison, nobody went to  
18 jail, nobody got criminally prosecuted, for what should have been  
19 serious criminal offenses. And when people do start getting  
20 charged with things, it does have an impact and provides general  
21 deterrence that this is not a joke, these are serious criminal  
22 offenses, with real victims and significant financial impacts on  
23 communities.

24 So I think there is a role to be played here in terms of a  
25 message being sent out, and I want the message to be clear that,

1 under normal circumstances, I would send Mr. Bowser to prison for  
2 five years. I don't want to send any kind of mixed message to  
3 France. If Mr. Louarn comes in front of me for sentencing, he  
4 may very well be doing double-digit years in prison for his role  
5 and his involvement, and the same with the other individual. But  
6 we do have a situation here where Mr. Bowser, as terrible as his  
7 crimes were, is the least culpable of the three, and he has  
8 serious medical issues and challenges, and he's been incarcerated  
9 under very difficult conditions for a significant period of time.

10 So taking all of those things into consideration, I'm going  
11 to agree with Ms. Whaley here that a 40-month sentence is  
12 appropriate, and I will impose the 40 months.

13 Upon finishing that sentence, Mr. Bowser will probably be  
14 deported to Canada, but we will place him on three years of  
15 supervised release, subject to standard conditions and the  
16 following special conditions: If deported, you shall not reenter  
17 the United States without explicit permission of the Department  
18 of Homeland Security. If you get such permission, you should  
19 report to the nearest probation office within 72 hours of  
20 reentry. There is restitution in the amount of \$4,500,000. Any  
21 unpaid amount should be paid during the period of supervision in  
22 monthly installments of not less than 10 percent of your gross  
23 monthly household income. I will waive interest on the  
24 restitution. And you shall submit to search of your person,  
25 property, house, residence, storage unit, vehicle, papers,

1 computers, and all other electronic devices or media, conducted  
2 in a reasonable time and manner by U.S. Probation. I will waive  
3 a fine for the inability to pay and the large amount of  
4 restitution. There is a special assessment of \$100 on each of  
5 the two counts, which is due immediately.

6 And just to be clear, the 40 months is on Count 6, and  
7 40 months on Count 9, to run concurrently, for a total of  
8 40 months imprisonment.

9 There was a waiver of appeal if the court stayed within or  
10 below the guidelines, so I'm not going to advise of that.

11 I do appreciate counsel getting together and agreeing this is  
12 not a leadership role, but it's not a minimum role either. So we  
13 have an agreed sentencing guideline range and criminal history  
14 category here.

15 So, Mr. Werner, is there anything else you need me to say  
16 about the restitution or the order?

17 MR. WERNER: Your Honor, could you confirm that you  
18 intend to place Mr. Bowser on three years of supervised release?

19 THE COURT: Yes, three years of supervised release.  
20 Yes.

21 MR. WERNER: Nothing further.

22 I will check with Mr. Filipovic.

23 THE COURT: Sure.

24 MR. FILIPOVIC: Your Honor, with respect to a  
25 recommendation to the Bureau of Prisons as to the place of

1 confinement, I have consulted with Mr. Bowser, and he's asking  
2 for a recommendation for FDC SeaTac because it's what he knows  
3 and the travel has been particularly difficult for him. So he's  
4 hoping that he can stay there.

5 THE COURT: Yeah. It's possible, given the amount of  
6 time he's already served and the amount remaining, that he could  
7 stay at SeaTac. I don't absolutely control that, but I would be  
8 happy to add a recommendation that he remain at FDC SeaTac. You  
9 can put that in, Mr. Filipovic.

10 MR. FILIPOVIC: Thank you, Your Honor.

11 THE COURT: Mr. Bowser, it's just a recommendation. The  
12 Bureau of Prisons will make their decision on that.

13 THE DEFENDANT: I understand that.

14 MR. FILIPOVIC: Your Honor, I have reviewed the proposed  
15 judgment. It accurately reflects the court's sentence.

16 THE COURT: Ms. Whaley, do you want to look at it, or  
17 are you okay with it?

18 MS. WHALEY: I will look at it.

19 THE COURT: Okay. And then, Ms. Whaley, you bring it  
20 up.

21 You know, Amelia Whaley is an attorney. Did you know that,  
22 Mike?

23 MR. FILIPOVIC: I did, Your Honor.

24 THE COURT: Yeah.

25 That's really putting your law degree to good use, I'd say.

1 MS. WHALEY: I agree, Your Honor.

2 Your Honor, may I approach?

3 THE COURT: Yes, please do, Ms. Whaley. Does it seems  
4 to reflect the court's ruling?

5 MS. WHALEY: Yes.

6 THE COURT: Thank you.

7 Okay. I have signed the judgment in the case. And as I  
8 said, I signed an order granting a motion to seal also. And I  
9 will put those there for Ashleigh.

10 Mr. Bowser, you know, what you do going forward will define  
11 your life, not what you have done looking back. And you have  
12 made a good start on making amends for what you did to the world,  
13 to the companies, to the individuals, and you also need to come  
14 to terms with your own life. As you say, you've had some  
15 traumas, you've had some difficulties. Work on staying off  
16 alcohol, work on dealing with the trauma and, you know, the  
17 post-traumatic stress that you probably have undergone here. But  
18 you can still do a lot to make your life meaningful and help the  
19 people around you. So good luck to you going forward.

20 Thank you very much, counsel, to the Entertainment Software  
21 Association, and to Nintendo. Thank you so much for your  
22 participation.

23 And, Mr. Filipovic, farewell and take good care of yourself.

24 MR. FILIPOVIC: Thank you, Your Honor.

25 THE COURT: Thank you.



1 We are adjourned.

2  
3 (Adjourned.)

4  
5 C E R T I F I C A T E

6  
7 I, Nickoline M. Drury, RMR, CRR, Court Reporter for the  
8 United States District Court in the Western District of  
9 Washington at Seattle, do certify that the foregoing is a correct  
10 transcript, to the best of my ability, from the record of  
11 proceedings in the above-entitled matter.

12  
13  
14 /s/ Nickoline Drury

15 Nickoline Drury  
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